
Health Care & Wellness Committee

HB 1135

Brief Description: Concerning remediation plans for licensed health and health-related professions to resolve eligible complaints of unprofessional conduct.

Sponsors: Representatives Cody, Harris, Jinkins and Gregerson; by request of Department of Health.

Brief Summary of Bill

- Allows a credentialed health professional and disciplining authority to agree to a remediation plan to resolve allegations of unprofessional conduct.
- Provides for situations where a remediation plan is inappropriate.

Hearing Date: 2/10/15

Staff: Daniel Rusk (786-7290) and Alexa Silver (786-7190).

Background:

The Uniform Disciplinary Act (UDA) governs credentialed health professionals (license holders). Depending on the profession, the disciplinary authority may be the Secretary of Health, or a board or commission. Under the UDA, a disciplining authority may take action against a license holder for a variety of reasons, including misrepresentation or fraud, unlicensed practice, and the mental or physical inability to practice skillfully or safely.

A disciplining authority may initiate a disciplinary action after receiving a complaint or if the disciplining authority has reason to believe that the license holder engaged in unprofessional conduct. The disciplining authority will conduct an investigation into the suspected unprofessional conduct. Following the investigation, if the disciplining authority has reason to believe that misconduct occurred, the disciplining authority may serve a statement of the charges on the license holder or follow an informal discipline process.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

If the disciplining authority serves a statement of the charges, the license holder is entitled to a hearing. If the disciplining authority finds that unprofessional conduct occurred, it issues sanctions. Sanctions available include revocation or suspension of the license, payment of a fine, mandatory completion of a remedial education program, and probation. The issuance of sanctions must be reported to: the national database, professional organizations and associations, other states' licensing authority, and the public.

In lieu of discipline, if the disciplining authority finds that the misconduct was the result of substance abuse, then the disciplining authority may refer the license holder to a voluntary substance abuse monitoring program.

Summary of Bill:

In addition to formal or informal disciplinary action, the disciplining authority and license holder may enter into a remediation plan to resolve the alleged misconduct. A remediation plan is an agreement that includes educational or corrective activities intended to resolve practice-related deficiencies. The disciplining authority has the discretion to choose whether to use a remediation plan, but a remediation plan may not be used if there is evidence of harm to a patient as a direct result of the license holder's practice-related deficiencies.

A remediation plan requires the disciplining authority and the license holder to agree to certain stipulations. The license holder: must sign any necessary releases; may be responsible for fees in the amount necessary to recover the costs for administering the remediation plan; is released of all allegations of unprofessional conduct if he or she completes the remediation plan; and may be subject to disciplinary action if he or she fails to comply with the remediation plan. By participating in a remediation plan, neither the license holder nor the disciplining authority admit to any occurrence of unprofessional conduct. Agreement to participate in a remediation plan does not prevent the disciplining authority from taking disciplinary action based on evidence discovered during the term of the remediation plan.

The remediation plan is not reportable to the national database, professional associations, and other states' licensing boards, but is subject to public disclosure. The remediation plan is not admissible in any civil, criminal, or administrative action. If a remediation plan is created, the complainant will be notified.

There are specific situations when a license holder and the disciplining authority may not enter into a remediation plan. The parties may not agree to a remediation plan if an investigation reveals:

- abuse, neglect, or financial exploitation of a patient;
- sexual misconduct;
- misuse of a controlled substance or legend drug;
- substance abuse;
- conviction of a felony;
- gross incompetence; or
- any allegation identified by the disciplining authority in rule.

Additionally, a remediation plan may not be used when:

- the license holder is already subject to a formal or an informal disciplinary action;

- restriction, suspension, or revocation of the license holder's license is more appropriate, as determined by the disciplining authority; or
- the license holder has been engaged in a remediation plan during the previous five years. The disciplining authority may establish less frequent eligibility.

The disciplining authority may adopt rules necessary to implement these requirements.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.